IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 20798 of 2004

Between:

P. Sankaraiah, S/o. P. Rajaiah,
R/o. Goleti, Bellampally, Adilabad District.

..... PETITIONER

AND

1 Singareni Collieries Company Limited, Rep. by its Medical Superintendent, Area Hospital, Bellampally, Adilabad District.
2 The General Manager, Singareni Collieries Company Limited, RG-I, Godavarikhani, Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the respondents and issue an appropriate Writ, Order or Direction, particularly one in the nature of Writ of Mandamus, declaring that the action of respondents in discontinuing power supply with effect from 22-8-2004 and water supply with effect from 24-8-2004 to the quarter No. ST-2/323, without notice as arbitrary, illegal, unjust, without putting me on notice and also in violation of Articles 14 and 21 of the Constitution of India, and grant all consequential benefits

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondents: MR.NANDIGAM KRISHANA RAO

The Court, at the stage of admission, made the following:

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ORAL ORDER:

This writ petition is filed seeking a Mandamus to declare the action of the respondents in disconnecting power supply with effect from 22.8.2004 and water supply with effect from 24.8.2004 to Quarter No.ST-2/323, without notice as illegal and arbitrary.

The case of the petitioner is that his family consists of wife, old-aged mother, four daughters and a son. As his children are studying in the college they are residing in the Quarter No.ST-2/323 allotted to him at Godavarikhani. When the petitioner is sought to pay the penal rent by proceedings dated 17/23.2.1999, he filed W.P.No.26259 of 1999 and obtained interim stay of recovery of penal rent. As the respondents were unsuccessful in writ petition, they have resorted to disconnecting the power and water supply and therefore, he prays to allow this writ petition.

The respondents filed counter affidavit *inter alia* stating that the petitioner was transferred from Godavarikhani to Goleti during the year 1998 and allotted Quarter No.D-651 at Goleti, but he refused to occupy the same. The petitioner was informed to vacate the Quarter

No.ST-2/323 at Godavarikhani, otherwise the power and water supply will be disconnected apart from recovery of penal rent. The petitioner is dodging to vacate the quarter whereby the other employees who are waiting for allotment of quarters are being affected.

The learned counsel for the petitioner has vehemently contended that the penal rent has been deducted from the petitioner's salary. When the penal rent was sought to be recovered from the petitioner, he filed a W.P.No.26259 of 1999. As the respondents were unsuccessful in the writ petition, they have resorted to trying to vacate the quarter by disconnecting the power and water supply. He has further contended that as per the Settlement, the petitioner is entitled to the recovery of penal rent for staying in the Quarter No.ST-2/323. Hence, he prays to issue necessary direction to the respondents.

On the other hand, the learned standing counsel for the respondents has contended that since the petitioner is not vacating the quarter in spite of being informed several times, the power and water supply is disconnected and a number of employees are waiting for allotment of Quarters at Godavarikhani, Ramagundam Area, and therefore, the petitioner cannot have any right to remain in the quarter. Hence, he prays to dismiss the writ petition.

The fact that the petitioner filed W.P.No.26259 of 1999 before this Court challenging the proceedings of the respondent in ordering recovery of penal rent at the rate of Rs.1500/- p.m. and obtaining interim suspension of that order are not in dispute. The petitioner was transferred from Godavarikhani, Ramagundam Area to Goleti in the year 1998. While he was working at Godavarikhani, a Quarter No.ST-2/323, was allotted to him. Even after he was transferred to Goleti, he did not vacate the Quarter. Therefore, the respondent ordered recovery of penal rent. Of course, that is the subject matter in this writ petition which is yet to be decided. Admittedly, the respondents disconnected the power and water supply inasmuch as the petitioner

has not vacated the quarter. When the petitioner is transferred from one place to another, he is bound to vacate the quarter. Having been transferred to Goleti in 1998, he did not vacate the quarter at Godavarikhani for a period of 6 years. It is not the case that he was not allotted any Quarter at Goleti during 1998. Even assuming that no quarter is allotted at Goleti, he cannot have any right to remain at Godavarikhani, once he is transferred from Ramagundam area. It is specifically stated by the respondents that so many other employees are waiting for allotment of quarters at Ramagundam area. Such is the case, the retention of the petitioner at quarter at Godavarikhani even after his transfer cannot be said to be illegal. Though the petitioner is entitled to regularization of services in pursuance of the settlement, if any, but as on today, the quarter in which the petitioner is residing has not been regularized to him. Therefore, he cannot have any right to continue in the quarter at Godavarikhani, Therefore, when he is not entitled to remain in the Quarter No.ST-2/323, he has no right to ask for power and water supply. Hence, the writ petition is devoid of merit.

The writ petition is accordingly dismissed. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J.)

17th February, 2005.

bcj

To

1 The Medical Superintendent, Singareni Collieries Company Limited,
Area Hospital, Bellampally, Adilabad District.
2 The General Manager, Singareni Collieries Company Limited,
RG-I, Godavarikhani, Karimnagar District.

3 Two C.D. copies.